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# HOUSE BILL No. 1766

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10.2-4; IC 21-6.1-4-6.1.

**Synopsis:** TRF benefit computations and service credit. Provides that retirement benefits for members of the Indiana state teachers' retirement fund (TRF) are based on the three years of service (rather than five years of service) in which compensation was highest. Increases the multiplier used to determine retirement benefits for TRF members from 1.1% to 1.4%. Provides that active members of TRF who serve on active duty in the armed services of the United States for at least six months are entitled to purchase service credit for the time served on active duty, to the extent service credit is not granted for that time under existing TRF provisions concerning military service credit. Requires a member to have at least ten years of creditable service in TRF before the member may use the purchased military service credit for purposes of computing retirement benefits. Specifies that these benefit changes apply only to members of TRF who retire after June 30, 2001.

**Effective:** July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1766

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A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-10.2-4-3 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Except as  
3       provided in subsection (e), in computing the retirement benefit for a  
4       nonteacher member, "average of the annual compensation" means the  
5       average annual compensation calculated using the twenty (20) calendar  
6       quarters of service in a position covered by the retirement fund before  
7       retirement in which the member's annual compensation was the  
8       highest. However, in order for a quarter to be included in the twenty  
9       (20) calendar quarters, the nonteacher member must have performed  
10      service throughout the calendar quarter. All twenty (20) calendar  
11      quarters do not have to be continuous but they must be in groups of  
12      four (4) consecutive calendar quarters. The same calendar quarter may  
13      not be included in two (2) different groups.

14      (b) In computing the retirement benefit for a teacher member,  
15      "average of the annual compensation" means the average annual  
16      compensation for the ~~five (5)~~ **three (3)** years of service before  
17      retirement in which the member's annual compensation was highest. In

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order for a year to be included in the ~~five (5)~~ **three (3)** years, the teacher member must have received for the year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of service. The ~~five (5)~~ **three (3)** years do not have to be continuous.

(c) Subject to IC 5-10.2-2-1.5 "annual compensation" means the basic salary earned by and paid to the member plus the amount that would have been part of that salary but for:

(1) the state's, a school corporation's, a participating political subdivision's, or a state educational institution's (as defined in IC 20-12-0.5-1) paying the member's contribution to the fund for the member; or

(2) the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code.

The portion of a back pay award or a similar award that the board determines is compensation under an agreement or under a judicial or an administrative proceeding shall be allocated by the board among the years the member earned or should have earned the compensation. Only that portion of the award allocated to the year the award is made is considered to have been earned during the year the award was made. Interest on an award is not considered annual compensation for any year.

(d) Compensation of no more than two thousand dollars (\$2,000) received from the employer in contemplation of the member's retirement, including severance pay, termination pay, retirement bonus, or commutation of unused sick leave or personal leave, may be included in the total annual compensation from which the average of the annual compensation is determined, if it is received:

(1) before the member ceases service; or

(2) within twelve (12) months after the member ceases service.

(e) This section applies to a member of the general assembly:

(1) who is a participant in the legislators' retirement system established under IC 2-3.5;

(2) who is also a member of the public employees' retirement fund or the state teachers' retirement fund; and

(3) whose years of service in the general assembly may not be considered in determining the average of the annual compensation under this section, as provided in IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).

The board shall use the board's actuarial salary increase assumption to project the salary for any previous year needed to determine the average of the annual compensation.

SECTION 2. IC 5-10.2-4-4, AS AMENDED BY P.L.195-1999,



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SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The computation of benefits under this section is subject to IC 5-10.2-2-1.5.

(b) For retirement benefits payable on and after July 1, 1975, for a member retired on and after January 1, 1956, the pension (p) is computed as follows:

STEP ONE: Multiply ~~one and one-tenths percent (1.1%)~~ **the applicable percentage (ap) determined under section 4.5 of this chapter** times the average of the annual compensation (aac) and obtain a product.

STEP TWO: To obtain the pension, multiply the STEP ONE product by the total creditable service (scr) completed by the member on his retirement date.

Expressed mathematically:

$$p = \text{(~~0.11~~) (ap) times (aac) times (scr)}$$

(c) Unless the member has chosen a lump sum payment under section 2 of this chapter or elects to defer receiving in any form the member's annuity savings account under section 2(c) of this chapter, the annuity is the amount purchasable on the member's retirement date by the amount credited to the member in the annuity savings account. The amount purchasable is based on actuarial tables adopted by the board under IC 5-10.2-2-10 at an interest rate determined by the board.

SECTION 3. IC 5-10.2-4-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.5. (a) The applicable percentage referred to in section 4(b) of this chapter is one and one-tenth percent (1.1%) for:**

- (1) a member of the public employees' retirement fund; and**
- (2) a member of the Indiana state teachers' retirement fund who retires before July 1, 2001.**

**(b) For a member of the Indiana state teachers' retirement fund who retires after June 30, 2001, the applicable percentage referred to in section 4(b) of this chapter is one and four-tenths percent (1.4%).**

SECTION 4. IC 21-6.1-4-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6.1. (a) This subsection applies to members who retire before July 1, 1980. A member who had completed four (4) years of approved college teacher training before voluntary or involuntary induction into the military services is entitled to credit for that service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if for or during the

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1 leave of absence the member pays into the fund the member's  
 2 contributions. Time served by a member in military service for the  
 3 duration of the hostilities or for the length of active service in the  
 4 hostilities and the necessary demobilization time after the hostilities is  
 5 not subject to the one-seventh rule specified in section 5 of this chapter.

6 (b) This subsection applies to members who retire after June 30,  
 7 1980. A member who had completed four (4) years of approved college  
 8 teacher training before voluntary or involuntary induction into military  
 9 service is entitled to credit for the member's active military service as  
 10 if the member had begun teaching before the induction. A member who  
 11 serves in military service is considered a teacher and is entitled to the  
 12 benefits of the fund if:

- 13 (1) the member has an honorable discharge; and
- 14 (2) except as provided in subsection (f), the member returns to  
 15 active teaching service within eighteen (18) months after the  
 16 completion of active military service.

17 The time served by a member in military service for the duration of the  
 18 hostilities or for the length of active service in the hostilities and the  
 19 necessary demobilization time after the hostilities is not subject to the  
 20 one-seventh rule specified in section 5 of this chapter. However, not  
 21 more than six (6) years of military service credit may be granted under  
 22 this subsection. In order to be eligible for any military service credit  
 23 under this subsection, a member must have at least ten (10) years of  
 24 in-state service credit.

25 (c) This subsection applies to members who retire after May 1,  
 26 1989. A member who had begun but had not completed four (4) years  
 27 of approved college teacher training before voluntary or involuntary  
 28 induction into the military services is entitled to service credit in an  
 29 amount equal to the duration of the member's active military service if  
 30 the following conditions are met:

- 31 (1) The member has an honorable discharge.
- 32 (2) Except as provided in subsection (f), the member returns to a  
 33 four (4) year approved college teacher training program within  
 34 eighteen (18) months after the completion of active military  
 35 service and subsequently completes that program.
- 36 (3) The member has at least ten (10) years of in-state service  
 37 credit.

38 (d) This subsection applies to members who retire after May 1,  
 39 1991, and who are employed at state institutions of higher education.  
 40 A member who had begun but had not completed baccalaureate or  
 41 post-baccalaureate training before voluntary or involuntary induction  
 42 into military service is entitled to the member's active military service

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1 credit for the member's active military service in an amount equal to  
 2 the duration of the member's military service if the following  
 3 conditions are met:

4 (1) The member received an honorable discharge.

5 (2) Except as provided in subsection (f), the member returns to  
 6 baccalaureate or post-baccalaureate training within eighteen (18)  
 7 months after completion of active military service and  
 8 subsequently completes that training.

9 (3) The member has at least ten (10) years of in-state service  
 10 credit.

11 (e) The maximum amount of service credit that may be granted to  
 12 a member who meets the conditions of subsection (c), or (d) is six (6)  
 13 years. However, for purposes of subsection (c), or (d), the time served  
 14 by the member in active military service for the length of active service  
 15 in hostilities and necessary demobilization is not subject to the  
 16 one-seventh rule specified in section 5 of this chapter.

17 (f) The board shall extend the eighteen (18) month deadline  
 18 contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines  
 19 that an illness, an injury, or a disability related to the member's military  
 20 service prevented the member from returning to active teaching service  
 21 or to a teacher training program within eighteen (18) months after the  
 22 member's discharge from military service. However, the board may not  
 23 extend the deadline beyond thirty (30) months after the member's  
 24 discharge.

25 (g) If a member retires, and the board subsequently determines that  
 26 the member is entitled to additional service credit due to the extension  
 27 of a deadline under subsection (f), the board shall recompute the  
 28 member's benefit. However, the additional service credit may be used  
 29 only in the computation of benefits to be paid after the date of the  
 30 board's determination, and the member is not entitled to a  
 31 recomputation of benefits received before the date of the board's  
 32 determination.

33 (h) Notwithstanding any provision of this section, a member is  
 34 entitled to military service credit and benefits in the amount and to the  
 35 extent required by the Uniformed Services Employment and  
 36 Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later  
 37 amendments.

38 **(i) Subject to the provisions of this section, an active member**  
 39 **may purchase service credit for the member's service on active**  
 40 **duty in the armed services if the member meets the following**  
 41 **conditions:**

42 **(1) The member has at least one (1) year of credited service in**

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the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(j) The following apply to the purchase of service credit under subsection (i):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of



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1 service credit if the purchase would exceed the limitations  
2 under Section 415 of the Internal Revenue Code.

3 (3) A member may not claim the service credit for purposes  
4 of determining eligibility or computing benefits unless the  
5 member has made all payments required for the purchase of  
6 the service credit.

7 SECTION 5. [EFFECTIVE JULY 1, 2001] IC 5-10.2-4-3,  
8 IC 5-10.2-4-4, and IC 21-6.1-4-6.1, all as amended by this act, and  
9 IC 5-10.2-4-4.5, as added by this act, apply only to members of the  
10 Indiana state teachers' retirement fund who retire after June 30,  
11 2001.

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